

RECOVERY

*The official newsletter of the
Fletcher Group Rural Center Of Excellence*



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A SACRED DUTY

**Fletcher
Group**

The Fletcher Group Rural
Center of Excellence

by Founder and Chief Medical Officer Dr. Ernie Fletcher

Privacy—the ability to determine for ourselves when, how, and for what purpose our personal information will be shared—is essential to emotional health and dignity.

Confidentiality, especially in recovery, reflects our respect for privacy and is essential in protecting the vulnerabilities of each individual along their journey.

We also know that the power of kept promises—and the devastation of broken ones—can be keenly felt by those in recovery. We should always be aware that, as an act of honor between individuals, confidentiality places on the receiver a sacred duty.

Privacy and confidentiality are especially challenging in rural communities where “everyone knows everyone else’s business.” For providers and peers to be trusted and effective, they must be aware of its importance and the harm that breaches can cause.

This issue of Recovery is dedicated to helping you uphold that duty with the care and respect we owe not only to those in recovery, but to everyone.

WHY IT'S IMPORTANT

By safeguarding privacy, confidentiality helps create a healthy, judgment-free therapeutic space where patients feel safe to share sensitive details about their lives and substance use. Momentarily free of worldly stigma and discrimination, providers and patients can develop the mutual respect and trust needed for honest communication and successful outcomes.

More Effective Treatment Planning

Confidentiality enables providers to gain a deeper understanding of the patient's needs. Because their diagnosis can be based on accurate information, personalized treatment plans can be developed that address the unique needs of each patient.

But Fear Is Powerful

The power of fear should not be underestimated. "SAMHSA'S annual survey shows essentially the same results every year," says Dr. Kenneth Martz, who presented on the subject of confidentiality at the Fletcher Group's most recent webinar. "The number one reason people don't seek help is they don't believe they have a problem. But after that, it's the fear of what friends, employers, and others will think."

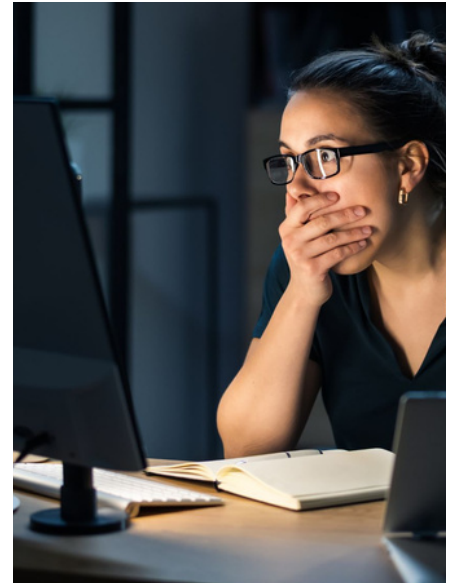
Fear Is Real

"And sometimes it's more than fear," says Martz. When confidentiality is breached, traumatic feelings of betrayal, embarrassment, and shame can exacerbate existing mental health conditions, contribute to emotional distress, and discourage a patient from seeking help, sharing sensitive information, and engaging in treatment.

Fear Is Warranted

Equally devastating is the discrimination that can follow a breach in confidentiality. Those doubting its importance should keep in mind a few of the examples shared by Dr. Martz:

- A young man who lost his job following successful treatment for alcoholism. The employer deemed him a safety threat even though his physician had cleared him to resume work with no restrictions.
- A young mother threatened with eviction from a shelter because she took methadone prescribed to treat her opioid addiction
- A young mother evicted from the same facility for the same reason who then became homeless



- A young mother who lost custody of her infant following the unlawful disclosure of her addiction treatment records
- A young lawyer who was terminated two weeks into a new job because her prescribed use of methadone was revealed in a background check
- A young woman whose dream of opening and owning her own business was destroyed because no insurance company would cover her employees
- A husband of four working at a high-risk job in the fishing industry who could not buy life insurance

NEED HELP MANAGING EMOTIONS?

To visit Dr. Martz's website...

[CLICK HERE](#)



LEGAL & ETHICAL OBLIGATIONS

Confidentiality breaches can have serious legal ramifications, including penalties and disciplinary action. There are also ethical guidelines that, if violated, can damage a home's reputation, jeopardize community support, and threaten sponsor funding.

Many Laws to Consider

Four federal laws pertain: 42 CFR Part 2 Subparts A-E, 45 CFR Subtitle A Chapter C (also known as HIPAA), Act 42 U.S.C. 290ee-3, and Act 42 U.S.C. 290dd-3. All align with the Federal Privacy of Medical Information Act of 1972 that states, "Every patient and former patient must be assured that his right to privacy will be protected. Without that assurance, fear of public disclosure of drug abuse or of records that will attach for life will discourage thousands from seeking the treatment they must have if this tragic national problem is to be overcome."

HIPAA in particular safeguards protected health information (PHI) by standardizing electronic records, promoting secure data storage systems, and limiting PHI solely to authorized personnel. The Health Information Technology for Economic and Clinical Health Act adds additional requirements and even stricter penalties.

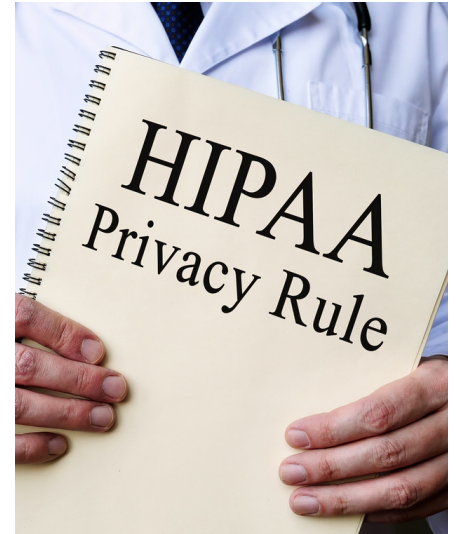
A variety of state laws also address mental health, substance use disorder, and HIV-related confidentiality.

Note that all such laws and ethical guidelines apply not only to recovery home operators but to the treatment providers and other professionals they work with, including healthcare specialists, counselors, and support groups.

Exceptions to the Rule

This is where it gets even trickier, especially if you're ever asked by authorities for information you've promised to keep confidential. In his presentation, Dr. Martz lists numerous exceptions identified in 42CFR Part 2. They include disclosures needed to:

- Investigate a crime on the premises
- Deal with a medical emergency
- Investigate child abuse or neglect
- Detect or prevent a serious crime
- Prevent harm to a patient or the public
- Aid judicial proceedings (through what's called a "Good Cause Court Order")
- Conduct a regulatory audit or evaluation



One other thing: Just because information has been disclosed once doesn't mean it can be redisclosed. The promise to protect confidential information has no expiration date.

NEED ADVICE?

If you feel the need for legal guidance but are on a budget, the National Council of Nonprofits website can help. Its interactive map can put you in touch with your state's association of nonprofits who, in turn, may be able to help you obtain pro bono legal assistance. To access the map...

[CLICK HERE](#)



Another source of valuable information is Aaron Hurst's book, *Powered by Pro Bono: The Nonprofits Step-by-Step Guide to Scoping, Securing, Managing, and Scaling Pro Bono Resources*.

WHAT YOU CAN DO

Balancing collaboration with confidentiality is no easy task. And just when you think it's all about the law, some expert (Dr. Kenneth Martz in our case), goes all poetic, describing it as an "intricate dance between confidentiality and community in the pursuit of recovery." So is maintaining confidentiality also an art form?

Whatever it is, here are some hard and fast rules we'd all be wise to follow per Dr. Martz's webinar presentation.

Be Careful. Always be aware of your surroundings. Discuss confidential matters and sensitive information only in private settings with no unauthorized personnel within earshot.

Do Your Homework. Establish and clearly document all policies, guidelines, and protocols you may have for sharing patient information, including who has—and who doesn't have—access to sensitive information.

Get It On Paper. Create detailed confidentiality agreements and obtain informed consent from all patients. What is "informed consent?" It means discussing in detail, before anyone signs anything, the importance of collaboration, the limits of confidentiality, and the measures you've taken to protect privacy.

All On Board. It's crucial that you implement agreements with *all* professionals involved in the treatment you provide. Agreements should outline the responsibilities of each party to maintain confidentiality and describe the consequences of any breach.

Be Strict. Be on guard for any bending of the rules and act quickly to preempt any possible violation.

Buckle Up. Install robust security measures, including encryption of sensitive information and strong password protection. All devices and paper documents should be physically secured, locked away at night, and never left unattended during the day. Confidential information should be clearly marked as such and all data, devices, and paper records that become obsolete should be securely disposed of.

Continuing Ed. Especially these days, the only constant is change. All staff should be provided with ongoing education and training regarding your data privacy and



WATCH THE VIDEO

To view Dr. Martz's presentation at our December 7 webinar, simply...

[CLICK HERE](#)



security protocols as well as their legal and ethical obligations.

Hold Your Ground. Challenge and verify the identity of any person requesting person-identifiable or confidential information. Such information should be shared only on a need-to-know basis and only with healthcare professionals involved in the patient's care.

One more thing: Never share more than the minimum amount of information required.

Revisit and Review
Last but not least, regularly update your confidentiality policies to ensure that they align with evolving legal and ethical standards.